



DFW

Attorney Docket No.23399.00
Customer No. 37833
Confirmation No. 7092

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN THE *PATENT APPLICATION OF:*

APPLICANT : MIKE S. McELROY

APPLN. NO. : 10/659,347

ART UNIT : 3635

FILED : SEPTEMBER 11, 2003

EXAMINER : NGUYEN, CHI

TITLE : SUPPLEMENTAL DOOR TRIM

COMMISSIONER FOR PATENTS
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450

RECONSIDERATION OF HOLDING OF ABANDONMENT

Sir:

The Notice of Abandonment mailed August 9, 2007, stated that the above-identified application became abandoned because of Applicant's failure to timely reply to the Office action of January 26, 2007.

Reconsideration is hereby respectfully requested of the holding of abandonment in view of Applicant's response filed at the U.S. Patent and Trademark Office on July 26, 2007. A copy of the response to the outstanding Office action, a copy of the petition for a three-month extension of time and check in the amount of \$510.00, and a copy of the date-stamped receipt confirming the timely filing of these papers is attached herewith. Note also that these documents are listed in the USPTO's Private PAIR for this application.

For the foregoing reasons, Applicant respectfully submit that the above-noted response was filed at the USPTO within the extended statutory period for response and there is no abandonment in fact.

Respectfully submitted,

Richard J. Apley
Registration No. 51,316
(703) 486-1000

RJA:dht



TO: THE COMMISSIONER OF PTO

THE FOLLOWING HIGHLIGHTED ITEM(S) ARE FILED HEREWITH IN THE PTO.
PLEASE ACKNOWLEDGE RECEIPT HEREON WITH THE APPROPRIATE DATE STAMP AND
RETURN THIS RECORD:

Pat. Appl. ___ pgs.

Pat. Amdt. 6 pgs.

Pat. Mtnc. Fee Form

Pat. Issue Fee Form (PTO 85(b))

Verified Small Entity Stmt.

Declaration/Power of Atty.

Associate Power of Atty.

Pet./Time Extension- Three Months

Information Disc. Stmt.

Check for \$ 510.00

TM Appl. ___ pgs.

TM Renewal Appl.

TM Aff. 8 and/or 15

Notice of Opposition

Notice of Appeal

Appeal Brief

Formal Dwg. ___ sheets & ___ Figs.

Informal Dwg. ___ sheets & ___ Figs.

Other _____

Other _____

In Re Application of: MIKE S. McELROY

Appl. Serial No. 10/659,347

Atty. Dkt. No. 23399.00

DATE STAMP



Non-Final Response
Due July 26, 2007
With 3-Month Extension
RJA



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THE COPY

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IN THE PATENT APPLICATION OF:

APPLICANT : MIKE S. MCELROY

SERIAL NO. : 10/659,347

ART UNIT: 3635

FILED : SEPTEMBER 11, 2003

EXAMINER: CHI Q. NGUYEN

FOR : SUPPLEMENTAL DOOR TRIM

MAIL STOP AMENDMENT
COMMISSIONER FOR PATENTS
ALEXANDRIA, VA 22313-1450

PETITION FOR EXTENSION OF TIME

Sir:

Petition is hereby made for a THREE-month extension of time for responding to the Office Action of January 26, 2007 in the above-identified application.

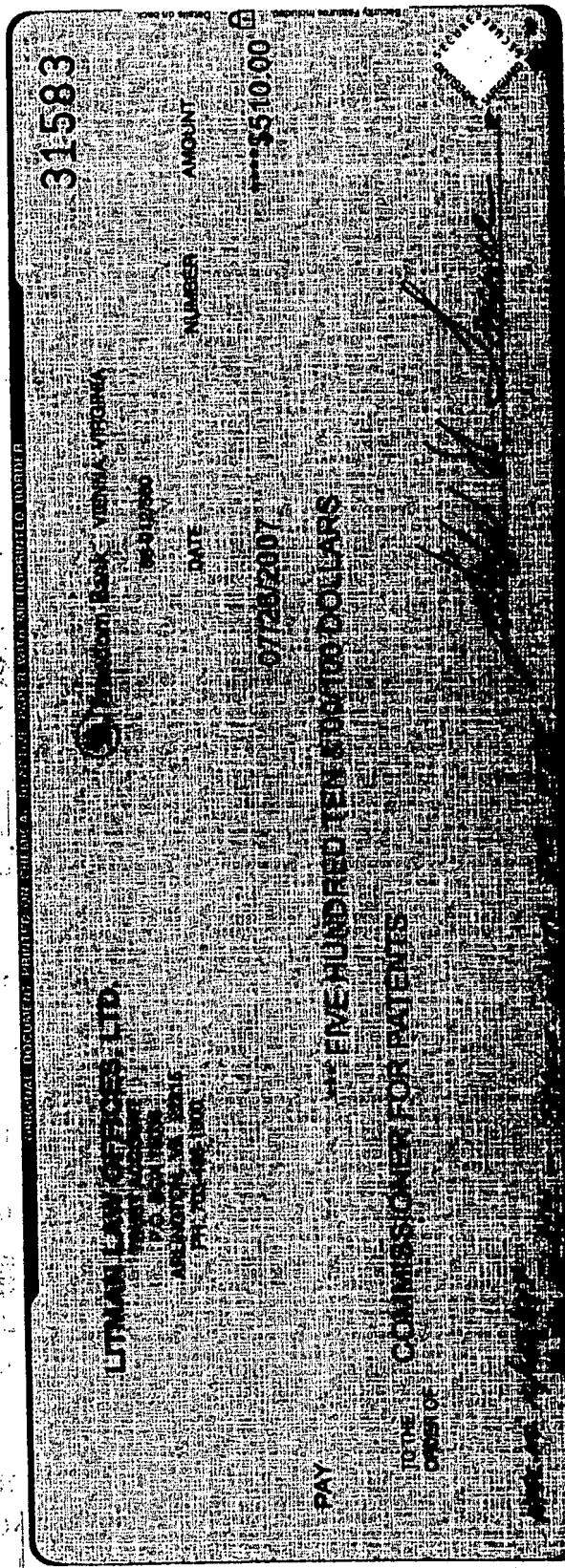
The normal period for response expired on April 26, 2007, and with approval of this requested extension, the period for response will expire on July 26, 2007.

A check in the amount of \$510.00 is attached. Any additional fees may be charged to Deposit Account No. 12-1662 of the undersigned.

Respectfully submitted,


Richard J. Apley
Registration No. 51,316
(703) 486-1000

RJA: dht





Attorney Docket No. 23399.00

Confirmation No. 7092

Customer No. 37833

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN THE PATENT APPLICATION OF:

APPLICANT : MIKE S. McELROY

APPL. NO. : 10/659,347

ART UNIT : 3635

FILED : September 11, 2003

EXAMINER : CHI Q. NGUYEN

FOR : SUPPLEMENTAL DOOR TRIM

**MAIL STOP AMENDMENT
COMMISSIONER FOR PATENTS
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450**

AMENDMENT AND RESPONSE

Sir:

This communication is responsive to the Office Action dated January 26, 2007. The period set for responding to this action expired on April 26, 2007. Submitted with the present response is a Petition for the Extension of Time of THREE (3) months and fee, thereby increasing the time for responding to the outstanding Office Action to July 26, 2007.

Please amend the above-identified application as follows:

Amendments to the Claims are reflected in the listing of claims, which begin on page 2 of this paper.

Remarks/Arguments begin on page 4 of this paper.

IN THE CLAIMS:

This listing of claims will replace all prior versions, and listings, of claims in the application:

Listing of Claims:

Claims 1-11. (*Canceled*)

Claim 12. (*Currently Amended*) A combination supplemental door trim and door molding comprising:

an elongated section of door molding;

a supplemental door trim;

said supplemental door trim comprising an elongated, substantially rigid trim section, said trim section having a substantially L-shaped cross-section;

said substantially L-shaped cross section formed with a base portion and an elongated integral arm section;

said base portion, having a lower base portion configured and sized [[for]] to at least partly overlay said door molding and contacting an existing wall, and an upper base portion;

said elongated integral arm section extending from the upper base portion at substantially a right angle thereto, said integral arm section terminating in a free end;

wherein said supplemental door trim is installed over said elongated section of door molding and said integral arm section and free end overlay said door molding section.

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Claim 13. (*Currently Amended*) The supplemental door trim according to claim 12, wherein the supplemental door trim is made of ~~a material selected from a group consisting of wood and medium density fiber board.~~

Claim 14. (*Previously Presented*) The supplemental door trim according to claim 12, wherein the integral arm section defines a setback of about 0.25 inches from said door molding.

Claim 15. (*Previously Presented*) The supplemental door trim according to claim 12, wherein the integral arm section defines a flat face.

Claim 16. (*Previously Presented*) The supplemental door trim according to claim 12, wherein the integral arm section defines a variable face.

Claim 17. (*New*) The supplemental door trim according to claim 12, wherein the supplemental door trim is made of medium density fiber board.

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REMARKS

By the present amendment, Applicant has amended Claims 12 and 13 and has added claim 17. Claims 12-17 remain pending in the present application. Claim 12 is the independent claim.

In the recent Office Action the Examiner rejected Claim 13 under 35 U.S.C. § 112, second paragraph, as being indefinite. The Examiner stated there was an inconsistency between the Markush recitation in Claim 13 and the specification at page 9, lines 16-17 which states the material may be "made of any suitable material such as wood or medium density fiber board." (MDF). Although there is no inconsistency between the Markush claim language and the specification, in order to advance the prosecution of the application, Applicant has amended Claim 13 to recite "wood" and has added claim 17 to recite MDF. Applicant respectfully submits that Claims 13 and 17 meet the specific requirements of 35 U.S.C. § 112, second paragraph.

In the recent Office Action the Examiner rejected Claims 12, 13, and 15 under 35 U.S.C. § 102(b) as being anticipated by Kelly (6,216,395). Claims 14 and 16 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kelly ('395).

Applicant will advance arguments hereinbelow to illustrate the manner in which the presently claimed invention is patentably distinguishable from the cited and applied prior art. Reconsideration of the present application is respectfully requested.

Applicant's claim 12 is directed to the combination of a supplemental door trim 100 and door molding 120. In order to further clarify this combination of structures, Claim 12 has been amended to recite that the base portion (160) is configured and sized to at least partly overlay the door molding 120. The Examiner's attention is directed to Fig. 3 and page 7, lines 15-19 for supporting disclosure.

In contradistinction to claim 12, the Kelly reference is directed to the combination of a threshold protector 30 used to protect the door threshold 10. The Examiner states that Fig. 2 of Kelly discloses the supplemental door trim being installed over the door molding. In actuality, Fig. 2 discloses a threshold protector 30 over a door threshold 10, the latter comprising a front edge 11, rear edge 12, a main step 16, a first minor step 17, a door step 18 and a second minor step 19. The door threshold is NOT A DOOR MOLDING and the threshold protector is NOT A DOOR TRIM. Claim 12 has been amended to clarify the combination of door trim and door molding by reciting that the base portion of the trim is configured and sized to at least partly overlay the door molding 120 (see Fig. 3 and page 7, lines 15-19).

Although the Examiner is permitted to give terms of a claim "the broadest reasonable interpretation" (*Phillips v. AWH Corp.*, 415 F.3d 1303, 75 USPQ2d 1321, Fed. Cir. 2005), the Courts have consistently held that the interpretation must be reasonable, consistent with the interpretation that those skilled in the art would reach, and given their plain meaning (see MPEP §§ 2111 and 2111.01). In the instant claim, the door trim and door molding can not be construed and interpreted to mean a threshold protector and door

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threshold; and rejected by a door threshold and threshold protector. The Kelly reference fails to meet the language of the claim and therefore can not be an anticipatory reference.

In regard to Claim 14, the Examiner concedes that the Kelly reference does not possess the setback of about 0.25" from the door molding. Applicant provides this setback for the reasons of providing an aesthetic blending into the door molding and to avoid clashes with the existing door hinges (page 6, lines 20-22 through page 7, lines 1-3). The reason Kelly does not possess this structure nor would it have been obvious to provide it on Kelly is simple: Kelly's structure is directed to a threshold protector and provides an overhanging flange 31 (Fig. 2) that overhangs the front edge of the threshold.

For the foregoing reasons, Applicant respectfully submits that the present application is in condition for allowance. If such is not the case, the Examiner is requested to kindly contact the undersigned in an effort to satisfactorily conclude the prosecution of this application.

Respectfully submitted,



Richard J. Apley
Registration No. 51,316
(703) 486-1000

RJA: dht

Attachments: Petition for Extension of Time (3 months)
Check (\$510.00)